UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

) MDL No. 1456
IN RE PHARMACEUTICAL INDUSTRY) Master File No. 01-12257-PBS
AVERAGE WHOLESALE PRICE)
LITIGATION) (Original Central District of California
	_) No. 03-CV-2238)
)
THIS DOCUMENT RELATES TO:) Judge Patti B. Saris
State of California, ex rel. Ven-A-Care v.)
Abbott Laboratories, Inc., et al.)
CASE #: 1:03-cv-11226-PBS)
	_)

<u>DEFENDANTS' MOTION FOR LEAVE TO FILE</u> <u>A SUPPLEMENTAL BRIEF IN SUPPORT OF THEIR MOTION TO DISMISS</u> PLAINTIFFS' FIRST AMENDED COMPLAINT-IN-INTERVENTION

Pursuant to Local Rule 7.1(b)(3), Defendants listed below respectfully move this Court for leave to file Defendants' Supplemental Brief In Support Of Their Motion To Dismiss Plaintiffs' First Amended Complaint-In-Intervention, attached hereto.

On May 22, 2006 this Court heard oral argument on Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint-In-Intervention. At the hearing, the Court asked several questions regarding the meaning of Average Wholesale Price ("AWP") and Direct Price ("DP") under California law. Defendants maintain that comments at that hearing regarding this issue warrant the submission of a short brief (attached hereto as Exhibit 1) to clarify the California regulatory and statutory history regarding the use and understanding of those terms.

Dated: June 12, 2006

SUBMITTED ON BEHALF OF ALL LISTED DEFENDANTS BY:

/s/ Brian J. Murray

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Abbott Laboratories Inc. Armour Pharmaceutical Co. Aventis Pharmaceuticals Inc. B. Braun Medical Inc. Baxter Healthcare Corp.

Ben Venue Laboratories, Inc. Boehringer Ingelheim Corp.

Boehringer Ingelheim Pharmaceuticals, Inc.

Bristol-Myers Squibb Company

Dey, Inc.

Dey, L.P.

Immunex Corp.

Mylan Laboratories Inc.

Mylan Pharmaceuticals Inc. Roxane Laboratories, Inc.

Sandoz Inc.

Schering-Plough Corp.

Warrick Pharmaceuticals Corp.

ZLB Behring LLC (f/k/a Aventis Behring LLC)

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

I certify that the moving party has communicated with counsel for Plaintiffs in an effort to resolve the dispute referred to in this motion, and that the parties have not been able to reach agreement with respect thereto.

/s/ Tara A. Fumerton
Tara A. Fumerton

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on June 12, 2006, a copy to Lexis-Nexis for posting and notification to all parties.

/s/ Tara A. Fumerton
Tara A. Fumerton